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COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, APRIL 27, 2001

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS010084

Ex Parte: In the matter of
Adopting Revisions to the Rules
Governing Credit for Reinsurance

ORDER TO TAKE NOTICE

WHEREAS, § 12.1-13 of the Code of Virginia provides that the Commission shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction, and § 38.2-223 of the Code of Virginia provides that the Commission may issue any rules and regulations necessary or appropriate for the administration and enforcement of Title 38.2 of the Code of Virginia;

WHEREAS, the rules and regulations issued by the Commission pursuant to § 38.2-223 of the Code of Virginia are set forth in Title 14 of the Virginia Administrative Code;

WHEREAS, the Bureau of Insurance has submitted to the Commission proposed revisions to Chapter 300 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Credit for Reinsurance," which amend the rule at 14 VAC 5-300-90;

WHEREAS, the proposed revisions reflect technical revisions to correspond with § 38.2-1316.2 A 4 of the Code of Virginia and to describe more accurately the annual certifications expected of assuming entities; and

WHEREAS, the Commission is of the opinion that the proposed revisions should be considered for adoption with a proposed effective date of August 1, 2001.

THEREFORE, IT IS ORDERED THAT:

(1) The proposed revisions to the "Rules Governing Credit for Reinsurance," which amend the rule at 14 VAC 5-300-90, be attached hereto and made a part hereof;

(2) All interested persons who desire to comment in support of or in opposition to, or to request a hearing to oppose the adoption of, the proposed revisions shall file such comments or hearing request on or before June 11, 2001, in writing with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218 and shall refer to Case No. INS010084;

(3) If no written request for a hearing on the proposed revisions is filed on or before June 11, 2001, the Commission, upon consideration of any comments submitted in support of or in opposition to the proposed revisions, may adopt the revisions proposed by the Bureau of Insurance;

(4) AN ATTESTED COPY hereof, together with a copy of the proposed revisions, shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Douglas C. Stolte, who forthwith shall give further notice of

the proposed adoption of the revisions to the rules by mailing a copy of this Order, together with a draft of the proposed revisions, to all insurers, joint underwriting associations, group self-insurance pools, group self-insurance associations, and reinsurers licensed by or otherwise registered with the Commission, and subject to Article 3.1 of Chapter 13 of Title 38.2 of the Code of Virginia or otherwise authorized by Title 38.2 to reinsure risks; and by forwarding a copy of this Order, together with a draft of the proposed revisions, to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations; and

(5) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (4) above.

CHAPTER 300.

Rules Governing Credit For Reinsurance

14 VAC 5-300-90. Credit for reinsurance; reinsurers maintaining trust funds.

A. Pursuant to § 38.2-1316.2 A 4 or § 38.2-1316.3 A 3 of the Act, the Commission shall allow credit for reinsurance ceded to a trustee assuming insurer which, as of the date of the ceding insurer's statutory financial statement:

1. Maintains a trust fund and trustee surplus that complies with the provisions of § 38.2-1316.2 A 4 of the Act,
2. Complies with the requirements set forth ~~below~~ in subsections B, C and D of this section, and
3. Reports annually to the Commission on or before June 1 of each year in which a ceding insurer seeks reserve credit under the Act substantially the same information as that required to be reported on the NAIC annual statement form by licensed insurers, to enable the Commission to determine the sufficiency of the trust fund. The accounting shall, among other things, set forth the balance to the trust and list the trust's investments as the preceding year end and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31.

B. When credit is taken for reinsurance ceded to any trustee assuming insurer, the Commission may require that the ceding insurer file or cause to be filed:

1. A copy of the trust agreement pertaining to the requisite trust funds along with a statement identifying and locating the specific provisions in the agreement which satisfy the form of trust requirements set forth ~~below at~~ in subsection E of this section ,
2. Satisfactory evidence that the requisite trust funds are held in a qualified United States financial institution ,
3. A certified statement and accounting of trustee surplus executed by a duly authorized officer or representative of the trustee assuming insurer ,
4. A certified statement from the trustee of the trust listing the assets of the trust , and
5. A certified English translation for any foreign language documents filed pursuant to the Act or this chapter.

C. When credit is requested for reinsurance ceded to trustee assuming insurer which is a group ~~of including incorporated and~~ individual unincorporated underwriters, the group shall make available to the Commission annual certifications of solvency of each underwriter member of the group, prepared by the group's domiciliary regulator and its independent accountant; or if a certification is unavailable a financial statement, prepared by independent public accountants, of each underwriter member of the group.

D. When credit is requested for reinsurance ceded to a trustee assuming insurer which is a group of incorporated insurers under common administration, the group shall:

1. File evidence of its submission to the Commission's authority to examine the books and records of any member of the group.

2. Certify that any member examined will bear the expense of any such examination.

3. Make available to the Commission an annual certification of each underwriter member's solvency by the ~~members'~~ member's domiciliary ~~regulators~~ regulator and ~~their financial statements prepared by independent public accountants, of the solvency~~ of the solvency of each underwriter member of the group.

4. If requested by the Commission, file copies of annual statements for the three-year period preceding the initial request for credit, or other documents satisfactory to the Commission, which show that the group has continuously transacted an insurance business outside the United States for at least three years.

E. Form of Trust. The trust required under § 38.2-1316.2 A 4 of the Act and subdivisions A 2, A 3, B 1, and B 2 of this section shall provide that:

1. Contested claims shall be valid and enforceable out of funds in trust to the extent remaining unsatisfied 30 days after entry of the final order of any court of competent jurisdiction in the United States.

2. Legal title to the assets of the trust shall be vested in the trustee for the benefit of the grantor's United States policyholders and ceding insurers, their assigns and successors in interest.

3. The trust and the assuming insurer shall be subject to examination as determined by the Commission.

4. The trust shall remain in effect for as long as the assuming insurer, or any member or former member of a group of insurers, shall have outstanding obligations under reinsurance agreements subject to the trust, ~~and~~ .

5. No later than February 28 of each year the trustees of the trust (i) shall report to the Commission in writing setting forth the balance in the trust and listing the trust's investments at the preceding year end and (ii) shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next December 31.

F. Any amendment to the trust, required under § 38.2-1316.2 A 4 of the Act and subdivisions A 1, A 3, B 1, and B 2 of this section, shall be filed with the Commission within 30 days after the effective date of the amendment.